

Court of Appeals, State of Michigan

ORDER

Weisenthal Diagnostics Inc v Mobile Medical Group

Jessica R. Cooper
Presiding Judge

Docket No. 265121

Mark J. Cavanagh

LC No. 2004-059903-CZ

Pat M. Donofrio
Judges

The Court orders that the application for leave to appeal is GRANTED, and pursuant to MCR 7.205(D)(2), the Court orders that the July 5, 2005 order is VACATED only to the extent the court determined that plaintiff's claims are not untimely under the terms of the arbitration agreement. The issue of the timeliness of a claim otherwise subject to arbitration is a question to be determined by the arbitrator. *Amtower v William C Roney & Co (On Remand)*, 232 Mich App 226, 232-233; 590 NW2d 580 (1998). This matter is REMANDED for proceedings not inconsistent with this order. This order shall have immediate effect. MCR 7.215(F)(2).

This Court retains no further jurisdiction.

Judge Cooper would deny leave to appeal.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

FEB 17 2006

Date

Sandra Schultz Mengel
Chief Clerk